

Tabled



RESOLUTION 08-03-2011
A RESOLUTION TO ENTER INTO A LEASE AGREEMENT
FOR .61 ACRES OF REAL PROPERTY LOCATED AT
APPROXIMATELY 215 WEST MAIN STREET,
SANTAQUIN.

WHEREAS, unfinished space in the Santaquin City Public Safety Building, located at 275 West Main Street, is currently under construction to provide office space for, and to accommodate the office consolidation of, the Santaquin City Administration, Community Development and Utility Billing Offices into one building with the Public Safety Departments; and

WHEREAS, the public health and safety of our community would best be served by reserving the parking spaces nearest to the Public Safety Building for emergency response vehicles only thus necessitating the rental of additional lands to accommodate overflow parking for Santaquin City Employees and the Public At Large;

NOW THEREFORE, BE IT RESOLVED by the City Council of Santaquin, Utah, enters into the attached agreement for the lease of .61 acres of real property from William W. Morgan and Beverly S. Morgan at approximately 215 West Main Street, Santaquin.

(See attached)

ADOPTED AND PASSED by the City Council of Santaquin City, Utah, this 17th day of August, 2011.

SANTAQUIN CITY

James E. DeGraffenried, Mayor

Attest

Susan B. Farnsworth, City Recorder

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into as of the ____ day of August, 2011, by and between William W. Morgan and Beverly S. Morgan ("Lessors"), and the City of Santaquin, a fifth class city of the state of Utah, ("Lessee" or "City").

WHEREAS, Lessors own a parcel of real property in the City of Santaquin, which is adjacent to the Santaquin City Public Safety and Administration building and is more particularly described in the Office of the Utah County Assessor as Tax ID Number 90880004, consisting of approximately .61 acres ("the Property"); and

WHEREAS, the Property is vacant at the present time; and

WHEREAS, Lessee houses and operates various departments of the City at its present facility located at approximately 275 West Main Street, Santaquin, Utah, which location is immediately West of the Property, and is now in the process of housing additional City departments at that location, and anticipates that additional space will be needed from time to time for parking of vehicles of City employees and/or members of the public having business at the City offices; and

WHEREAS, Lessors and Lessee desire to enter into this Lease Agreement to provide for additional public and employee parking to accommodate the needs of the City offices;

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree and represent as follows:

1. **Lease of Property.** Lessors demise and lease to Lessee, and Lessee leases and takes from Lessors, that certain real property, referred to herein as the Property, situated at approximately 215 West Main Street, Santaquin, Utah, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference.

2. **Term of Lease.** The term of this Lease (the "Initial Lease Term") shall commence as of midnight, September 1, 2011, and shall continue until midnight, September 1, 2012. At the expiration of the Initial Lease Term, and on each anniversary thereafter, this lease agreement shall automatically renew for five (5) additional one-year terms, unless otherwise terminated as provided herein. Either party may terminate this Lease Agreement at any time by providing written notice of termination to the other party no later than ninety (90) days before the date of termination.

3. **Rent During Initial Lease Term.** Lessee agrees to pay, and Lessors agree to accept, as the rental during the Initial Lease Term, the sum of Two Thousand Dollars (\$2,000.00). The initial rent payment shall be paid within ten (10) days of the execution of this Lease Agreement. Lessee shall also pay to Lessors the sum of Two Thousand Dollars within ten

(10) days of each extension of this Agreement as provided in paragraph 2. Within ten (10) days of the termination of this Agreement, Lessors shall return to Lessee the pro-rata portion of rent paid for as rent for the period of time from termination to the next September 1.

4. **Access and Use.** This lease shall only authorize Lessee to use the Property for public and employee parking as necessary for the operation of the City offices that are located at 275 West Main Street, Santaquin, Utah. Lessee agrees that, except as otherwise agreed to by Lessors in writing, Lessee may not: (a) construct any improvements on the Property; (b) restrict access to the Property by the public and by any public or private utility provider; or (c) claim any right-of-way or easement over, through, under or across any property presently owned, or after acquired, by Lessors. Lessors agree that Lessee may construct improvements necessary for the use described herein, specifically including, but not limited to: curb cuts and approaches to enable appropriate access to the Property; and placement of road base and gravel on the Property Lessee may deem appropriate to improve access and parking on the Property.

5. **Taxes.** Lessor shall pay all real property taxes during the initial lease term and any extensions of this Lease. Lessee shall pay all personal and real property taxes, and maintenance on the Subject Property and in connection with the operation of all business activities thereon. The net rent shall be paid to Lessors without notice or demand and without abatement, deduction or set-off, except as otherwise expressly provided herein.

6. **Repairs and Maintenance.** Lessee shall, at all times during the term of the Lease, at its own cost and expense, keep and maintain the Property and all improvements located thereon in appropriate repair and condition. During the term of this Agreement, Lessee shall reasonably control vegetation and shall not store any materials or equipment, except for vehicles, on the Property.

7. **Alterations.** Lessee shall not alter or renovate or construct any improvements whatsoever on the Property without prior written consent of the Lessors. If such consent is given, all work shall be performed in a good and workmanlike manner, at Lessee's expense, and in accordance with accepted construction practices.

8. **Liens.** Lessee shall not cause or allow any workmen's or materialmen's liens or any other lien or encumbrance to attach to the Property.

9. **Inspection.** Lessors or their representative shall have the right to enter the Property with reasonable notice at any time during the term of the Lease to determine if the Property is in proper repair and condition.

10. **Licenses and Laws.** Lessee shall, at its own expense, obtain all necessary licenses and/or permits that may be required for its proposed use of the Property; and Lessee shall, at its own expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directions, rules and regulations of governmental authorities

having jurisdiction over the Property or appurtenances or any part of it or the conduct of Lessee's business.

11. **Damage or Destruction.** If, during the term of this Lease, any part of the Property or any improvement located thereon shall be destroyed or damaged, Lessee shall give to Lessors immediate notice, and Lessee, at its own cost and expense, may promptly repair, replace and reconstruct the damaged property as necessary to accomplish the purpose of the Agreement. Lessors shall in no event be called upon to repair, replace or reconstruct any improvements, nor to pay any of the expenses of the reconstruction.

Except as provided herein, this Lease shall not terminate, nor shall rental and other charges payable under this Lease be abated or affected in any manner because of any such damage or restoration efforts.

12. **Insurance.** Lessee shall, at its own cost and expense, provide and keep in force, insurance covering its personal property that is located on the Property. Lessee shall maintain General Liability Insurance with minimum two million dollar per occurrence, for purposes of insuring against claims for damages for bodily injury and/or property damage related to the Property, and shall maintain such insurance for the duration of this lease at no cost to Lessor. Lessee shall cause Lessors to be listed as an additional insured on Lessee's policy and provide Lessors with all applicable certificates of insurance.

13. **Indemnification of Lessors.** Lessee shall indemnify and save Lessors harmless from all costs, expenses, liabilities, losses, damages, injunctions, suits, actions, fines, penalties, claims and demands of every kind or nature, including reasonable attorneys' fees, by or on behalf of any person, party or governmental authority arising out of Lessee's use of the Property and any failure by Lessee to perform any of the agreements, terms, covenants or conditions of this Lease.

Lessors shall not be liable to Lessee for any damage to the Property, or for any damage to Lessee arising from any loss of use of the Property, whether such loss of use arises from service and repairs to the Property by Lessors or from the use of or construction, repair of maintenance on the Property by others.

14. **Events of Default.** Each of the following events shall be a default by Lessee and a breach of this Lease:

A. If Lessee files or has filed against it under any bankruptcy, or other insolvency, act; or if a receiver or trustee shall be appointed on all or substantially all of the property of Lessee and such proceedings shall not be dismissed or such receivership or trusteeship vacated within 60 days after such institution or appointment.

B. If Lessee shall fail to pay Lessors any rent or additional rent when it shall become due and payable.

C. If Lessee breaches any provision of this Agreement.

15. **Remedies on Default.** If Lessee should default at any time, and fail to correct that default within thirty (30) days after receipt of written notice of that default (or ten (10) days in the event of any failure to make a payment due hereunder), Lessors may, at their option, either: (a) terminate this Lease; or (b) relet the Property and any part thereof for such term or terms (which may be for a term extending beyond the lease term) and at such rental or rentals and upon such other terms and conditions as Lessors, may deem advisable. Upon such reletting, all rentals received by Lessors from such reletting shall be applied: first, to the payment of any indebtedness other than rent due hereunder from Lessee to Lessors; second, to the payment of any costs and expenses of such reletting; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Lessors and applied in payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month are less than the rental required to be paid during the month by Lessee hereunder, Lessee shall pay any such deficiency to Lessors.

16. **No Partnership:** Lessor does not, in any way or for any purpose, by this Lease Agreement become a partner or tenant in the conduct of its business or otherwise, or joint venturer, or a member of a joint enterprise with Lessee, and the parties acknowledge and agree that no relationship of principal and agent exists or is intended as between them.

17. **No Waiver.** The failure of Lessors to insist upon a strict performance of any of the agreements, terms, covenants and conditions of this Lease shall not be considered a waiver of any rights or remedies Lessors may have and shall not be considered a waiver of any subsequent breach or default.

18. **Assignment.** Lessee may not assign or sublease any interest in this Lease without Lessors' prior written consent, which consent shall be at Lessors' sole discretion.

19. **Notices.** Any notices, statements, requests, consents, or approvals required or permitted by law, or by any provisions hereof, shall be in writing, and shall be sufficiently given and served upon the other party if deposited in the United States mail, registered or certified, postage prepaid, with return receipt requested, and addressed to the respective addresses listed on the signature page hereof (or to such other addresses specified in writing).

20. **Lessors Authority and Quiet Enjoyment.** Lessors covenant and warrant to Lessee that they have good right, full power and lawful authority to enter into this Lease for the full term and any extensions hereof and that Lessors' execution of the Lease and the performance hereunder have been duly authorized by valid authority. Lessors agree that, upon compliance with the terms and conditions of this Lease, Lessee shall and may peaceably and quietly have, hold and enjoy the Property for the Lease term without hindrance or molestation from Lessors except as otherwise provided herein.

21. **Miscellaneous.**

A. This Lease contains the entire agreement between the parties and supersedes all prior arrangements, negotiations and agreements, whether written or oral.

No modifications, alteration or amendment of this Lease shall be binding unless in writing and executed by the parties hereto.

B. Time is of the essence of this Lease.

C. Any waiver by a party of any default, breach or failure by the other party shall not constitute a waiver of any other default, breach or failure by the other party hereunder. The subsequent acceptance of rent hereunder by Lessors shall not be deemed to be a waiver of any preceding default or breach by Lessee or this Lease, other than a failure of Lessee to pay the particular rent so accepted. No covenant, term or condition of this Lease shall be deemed to have been waived by a party unless such waiver is in writing by that party.

D. This Lease shall be governed by the laws of the State of Utah.

E. If either party shall default under any provision of this Lease, the defaulting party shall pay all costs and reasonable attorney's fees incurred by the other party, whether through legal action or otherwise, in enforcing its rights arising hereunder.

F. If any provisions of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons whose circumstances are other than those as to which it is held invalid or enforceable shall not be affected thereby.

G. The headings or title of the paragraphs and subparagraphs in this Lease are inserted solely for the convenience of reference and shall not constitute a part of this Lease, nor limit, define or describe the scope of intent of this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first hereinabove written.

ADDRESS:

2603 Express Drive
Eagle Mountain, Utah 84005

2603 Express Drive
Eagle Mountain, Utah 84005

LESSORS:

William W. Morgan

Beverly S. Morgan

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

On this ___ day of August, 2011, personally appeared before me William W. Morgan, who duly acknowledged to me that he executed the foregoing instrument.

Notary Public

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

On this ___ day of August, 2011, personally appeared before me Beverly S. Morgan, who duly acknowledged to me that she executed the foregoing instrument.

Notary Public

ADDRESS:

275 West Main
Santaquin, UT 84655

LESSEE:

SANTAQUIN CITY

James E. DeGraffenried, Mayor

ATTEST:

Susan B. Farnsworth, City Recorder

EXHIBIT A PROPERTY DESCRIPTION

The Property is described as that parcel that is referred to in the records of the Utah County Assessor's Office as Tax ID # 90880004. Although no metes and bounds description is included, the attached map, which identified the Property by the Tax ID #, consists generally of the real property fronting the south side of Santaquin Main Street running west from 200 West Street, 179.94 feet more or less to the real property owned by Santaquin City; thence south 147.45 feet more or less; thence east 179.94 feet more or less; and thence north 147.45 feet more or less; consisting of approximately .61 acres.